

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2-32 are pending in this application, Claims 2, 25, 27, and 29 having been currently amended; and Claim 32 having been added. Support for amended Claims 2, 25, 27, and 29 can be found, for example, in the original claims, drawings, and specification as originally filed. No new matter has been added.

In the outstanding Office Action, Claims 2-4, 7-8, and 27-30 were rejected under 35 U.S.C. § 102(b) as anticipated by Gordon (U.S. Patent No. 5,364,408); Claims 25, 26, and 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over Gordon; and Claims 5 and 6 were rejected under 35 U.S.C. § 103(a) as unpatentable over Gordon in view of Kortenbach (U.S. Patent No. 6,096,051).

Applicants acknowledge with appreciation the courtesy of Examiner Yabut in granting an interview in this case with Applicants' representative on June 30, 2009, during which time the issues in the outstanding Office Action were discussed as substantially summarized hereinafter and also on the Interview Summary sheet. No agreement was reached pending a formal response to the outstanding Office Action.

In regard to 35 U.S.C. §§ 102(b) and 103(a), Applicants respectfully request reconsideration of the rejection and traverse the rejection as discussed next.

Independent Claim 2 is directed to an organism tissue suturing apparatus including, *inter alia*:

a body part, with a predetermined length, having a rotary portion and can be inserted into said tissue of said organism from said hole;

two hollow needle members accommodated in a portion, inside said body part, rearward from said rotary portion;

a needle member operation portion for advancing said two hollow needle members toward said rotary portion from a side surface of said body part; and

two openings disposed at a rear-most portion of said body part and communicating with lumens of said two hollow needle members,

wherein said rotary portion has two needle member receiving portions for receiving a distal end of one of said hollow needle members and that of the other of said hollow needle members respectively pressed out of said body part; and a connection duct communicating with said two needle member receiving portions; and

one continuous duct for a suturing thread is formed to range from one of said two openings to the other of said openings through one of said lumens of one of said two hollow needle members, said connection duct of said rotary portion, and the other of said lumens of the other of said two hollow needle members, when said two needle member receiving portions receive said hollow needle members respectively at a same time.

Independent Claims 25, 27, and 29 recite substantially similar features as independent Claim 2. Thus, the arguments presented below with respect to independent Claim 2 are also applicable to independent Claims 25, 27, and 29.

As discussed during the interview, Gordon fails to teach or suggest “***one continuous duct*** for a suturing thread is formed to range from one of said two openings to the other of said openings through one of said lumens of one of said two hollow needle members, said connection duct of said rotary portion, and the other of said lumens of the other of said two hollow needle members, when said two needle member receiving portions receive said hollow needle members respectively at a same time, as recited in Claim 2.

The endoscopic suture system of Gordon does not describe Applicants’ claimed “***one continuous duct***” for the suturing thread. As shown in FIG. 6 of Gordon, the endoscopic suture system has two needle guides 58a and 58b. The needle guides 58a and 58b are constructed from stainless hypodermic tubing, and have pivot pins 60a and 60b pivotally

disposed within outer housing bosses 62a and 62b. However, as seen in Figure 4A of Gordon, the end of hollow cylinder 54a does not form one duct with the end of needle guide 58a, as there is a **gap** between the end of the hollow cylinder 54a and the end of the needle guide 58a, which causes a portion of the suturing thread to be exposed. Likewise, the end of hollow cylinder 54b does not form one duct with the end of needle guide 58b. Figure 4A of Gordon shows another gap between elongate flexible tubular member 56a and the hollow cylinder 54a. Thus, Gordon does not describe one continuous duct as Gordon shows discontinuities between the several ducts. In fact, Figure 4A of Gordon shows at least 6 ducts, whereas in Applicants' Claim 2 there is one continuous duct that is formed to range from "one of said two openings to the other of said openings through one of said lumens of one of said two hollow needle members, said connection duct of said rotary portion, and the other of said lumens of the other of said two hollow needle members, when said two needle member receiving portions receive said hollow needle members respectively at a same time."

Thus, Applicants respectfully submit that independent Claims 2, 25, 27, and 29 (and all claims depending thereon) patentably distinguish over Gordon.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. §§ 102(b) and 103(a) be withdrawn.

In order to vary the scope of protection recited in the claims, new Claim 32 is added. New Claim 32 finds non-limiting support in the disclosure as originally filed, for example at page 16, line 24 to page 18, line 5 and Figures 3, 8, and 9.

Therefore, the changes to the claims are not believed to raise a question of new matter.¹

¹ See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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